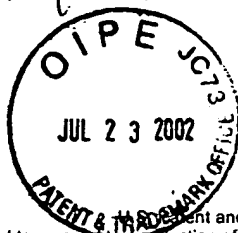


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Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)  
Approved for use through 10/31/2002. OMB 0651-0031  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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<h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p>	Application Number	09/818,228	
	Filing Date	March 27, 2001	
	First Named Inventor	Kent L. Christopher	
	Group Art Unit	3761	
	Examiner Name	M. Patel	
Total Number of Pages in This Submission	12	Attorney Docket Number	1246/39(a)

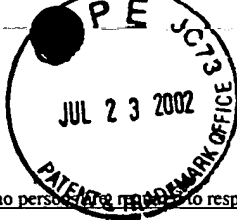
ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <p style="text-align: center;"><b>Fee Determination Record</b></p>
Remarks: _____		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Thomas S. Birney, Esq. Dorr, Carson, Sloan & Birney, P.C.
Signature	<i>Thomas S Birney</i>
Date	July 23, 2002

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: <span style="border: 1px solid black; padding: 2px;">July 23, 2002</span>			
Typed or printed name	Thomas S. Birney - 30,025	Express #	ET198957428US
Signature	<i>Thomas S Birney</i>	Date	July 23, 2002

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<b>PATENT APPLICATION FEE DETERMINATION RECORD</b>	<b>Application or Docket Number</b>
	<b>1246/39(a)</b>

CLAIMS AS FILED - PART I			SMALL ENTITY	OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED (Column 1)	NUMBER EXTRA (Column 2)	RATE	FEE	RATE	FEE
BASIC FEE (37 CFR 1.16(a))				\$ 355		\$ _____
TOTAL CLAIMS (37 CFR 1.16(c))	28	minus 20 = *	x \$ 9 =	72		x \$ _____ =
INDEPENDENT CLAIMS (37 CFR 1.16(b))	3	minus 3 = *	x 40 =	0		x _____ =
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(d))			+ _____ =			+ _____ =
			TOTAL	427	OR	TOTAL

\* If the difference in column 1 is less then zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II						SMALL ENTITY	OR	OTHER THAN SMALL ENTITY	
AMENDMENT A		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDI-TIONAL FEE	RATE	ADDI-TIONAL FEE
	Total (37 CFR 1.16(c))	* 28	Minus	** 28	= 0	x \$ 9 =	0	x \$ _____ =	
	Independent (37 CFR 1.16(b))	* 3	Minus	*** 3	= 0	x 42 =	0	x _____ =	
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))					+ _____ =		+ _____ =	
						TOTAL	0	OR	TOTAL

CLAIMS AS AMENDED - PART II						SMALL ENTITY	OR	OTHER THAN SMALL ENTITY	
AMENDMENT B		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDI-TIONAL FEE	RATE	ADDI-TIONAL FEE
	Total (37 CFR 1.16(c))	* 28	Minus	** 28	= 0	x \$ 9 =	0	x \$ _____ =	
	Independent (37 CFR 1.16(b))	* 3	Minus	*** 3	= 0	x 42 =	0	x _____ =	
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))					+ _____ =		+ _____ =	
						TOTAL	0	OR	TOTAL

CLAIMS AS AMENDED - PART II						SMALL ENTITY	OR	OTHER THAN SMALL ENTITY	
AMENDMENT C		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDI-TIONAL FEE	RATE	ADDI-TIONAL FEE
	Total (37 CFR 1.16(c))	* 28	Minus	** 28	= 0	x \$ 9 =	0	x \$ _____ =	
	Independent (37 CFR 1.16(b))	* 3	Minus	*** 3	= 0	x 42 =	0	x _____ =	
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))					+ _____ =		+ _____ =	
						TOTAL	0	OR	TOTAL

- \* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
- \*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
- \*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  
Kent L. Christopher

Serial No. 09/818,228

Filed: March 27, 2001

For: METHOD AND APPARATUS FOR  
PHARYNGEAL AUGMENTATION OF  
VENTILATION



Examiner M. Patel  
Group Art Unit 3761

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Assistant Commissioner for Patents  
Washington, D.C. 20231

AMENDMENT

Applicant respectfully submits the following in response to the Office Action dated May 2, 2002:

IN THE CLAIMS:

Please amend claim 1 as follows:

1. (thrice amended) A nasopharyngeal catheter for open delivery of a continuous flow of air/oxygen into a patient's distal nasopharynx or oropharynx to supplement a patient's spontaneous respiration in treatment of respiratory failure, respiratory insufficiency, or sleep apnea syndrome, said nasopharyngeal catheter comprising:

a nasal catheter having a proximal end and a distal end adapted to extend through a patient's nose and into the patient's distal nasopharynx or oropharynx without obstructing the patient's spontaneous respiration;

a delivery tube adapted to extend below the patient's nostril connected to the proximal end of the nasal catheter; and

C1